

REMARKS

In response to the Examiner's Office Action of April 28, 2005, Applicants are herein presenting the following considerations.

Examiner has rejected claim 1 for undue breadth of using a single means claim under 35 USC 112, 1st paragraph. In this regard, it will be noted that Applicants have now changed claim 1 to recite a combination of limitations which include the former claims 2 and 3. With these changes to claim 1, and also the newly-amended claims 4, 8, 10 and 11, it should now be seen that these claims cannot be considered as having undue breadth which might cover every conceivable structure.

Additionally, it will be seen that the newly amended claims 4 and 8 are dependent on claim 1, while the newly amended claim 10 is dependent on claim 4.

In this regard, Applicants would now traverse any objection for undue breadth under 35 USC 112, 1st paragraph.

Additionally, the Examiner has now cited the Bhat U.S. Patent 5,668,995 suddenly on this Final Action, and maintains that the claims are anticipated under 35 USC 102(b) by the Bhat reference.

In light of the newly-amended claims, and in light of the attached Claim Chart of each clause of these claims which are seen to indicate the Examiner's reference to Bhat, Applicants would herein traverse Examiner's contention that the Bhat reference could anticipate Applicants' claims as a whole in their entirety.

At this point, Applicants would like to indicate a few guidelines regarding 35 USC 102 from the attached Court decisions listed below:

It is well-established that "a claim is anticipated under 35 USC 102 only if each and every element as set forth in the claim is found either expressly or inherently described in a single prior art reference". Verdegaal Bros. v. Union Oil Company of California, 814 F.2d 628, 631; 2 USPQ2d 1051, 1053 (Fed.Cir. 1987). (See also MPEP 2131).

Additionally, as held in the recent CAFC decision, Trintec Industries, Inc. v. Top-USA Corp., (CAFC 7/2/02), --

"Inherent anticipation requires that the missing descriptive material is 'necessarily present', not merely probably or possibly present in the prior art". In re Robertson, 169 F.3d 743, 745; 49 USPQ2d 1949, 1950-51 (Fed.Cir. 1999).

Subsequently herein, there will be indicated a claim chart for this case which lists the various clauses of the claims involved and also an indication of what particular portion of the Bhat reference was cited by the Examiner, plus additional commentary as to the non-relevance of the Bhat citation.

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
<p>1. A method utilizable by a Thin Client Sizing Tool, for configuring Server Farms and for generating a proposed configuration of Servers and associated support apparatus established at one or more sites which will satisfy the requirement of a given customer's profile in regard to establishing a number of servers for each Server Farm which would be the most appropriate number of servers satisfying a given Customer's Profile, comprising the steps of:</p>	<p><i>None cited.</i></p> <p><i>The Bhat reference does not contemplate Server Farms.</i></p>

APPLICANTS' CLAIM 1: It will be seen that Applicants are involved in the configuration of each of the Server Farms and it will be noted that there is no teaching in the Bhat reference which contemplates the configuration of Servers and Server Farms which are established at different sites.

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
<p>1. (a) calculating a basic solution for establishing the appropriate number of servers and types of associated support apparatus, for each site and for each Server Farm and wherein said customer profile establishes the required amount of disk capacity which will be required for each User-type in using each particular application program, and wherein step (a) of calculating includes the steps of:</p>	<p><i>Col. 1, lines 55-61, and Col 1, lines 64-67:</i></p> <p>... specification, the present invention discloses a computer-implemented capacity planning system for multiprocessor computer systems used in client/server environments. The capacity planning system provides a correctly sized and configured computer system in response to user specified requirements. The user specified requirements comprise workload parameters. The generated output from the capacity ...</p> <p><i>Col. 3, lines 25-30:</i></p> <p>On receiving the inputs, the present invention performs a set of calculations contained in the mathematical model to provide the following outputs: the recommended model of multiprocessor computer system, the number of processors needed in the server, the amount of memory required, and the configuration of a disk subsystem suitable for the system, ...</p>

APPLICANT'S CLAIM 1(a): Examiner has cited the Bhat reference, column 1, lines 55-61, and column 1, lines 64-67. Here, Applicants will note that the cited references to Bhat do not calculate a basic solution for establishing the appropriate number of Servers and associated support apparatus for each site

and for each Server Farm. Here, Bhat only states the desirability of a capacity planning system which provides a correctly-sized and configured computer system. Bhat also mentions calculations in a "generalized" statement of a "mathematical model" to provide a recommended model on a multiprocessor computer system, the number of processors needed in the Server, amount of memory and configuration of the disk subsystem --- however, this does not apply to multiple Servers and Server Farms, as is contemplated by Applicants. Note that Applicants' Fig. 3 shows the multitude of Servers which form Farm units which can be used to make multiple Server Farms. Likewise, Applicants' Fig. 2 shows the use of multiple databases which are not contemplated by the Bhat reference.

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
<p>1. (a1) retrieving from said Customer Profile specific features and capabilities for each Server Farm at each site;</p>	<p><i>Col 1, lines 6-15:</i></p> <p>... the system, the amount of memory required, and the configuration of a disk subsystem suitable for the system, including the number of disk drives, the size of each of the disk drives, and how they should be configured for best ...</p>

APPLICANTS' CLAIM 1(a1): Applicants retrieve specific features and capabilities for each Server Farm at each site by retrieving information from a Customer Profile. Here, it will be seen that the Bhat reference only discusses the amount of memory required for the configuration of the disk subsystem and how they should be configured. This does not correlate to any teaching of Applicants' clause 1(a1).

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
1. (a2) retrieving from said Customer Profile each User-type involved in each Server Farm;	<p><i>Col. 3, lines 5-8:</i></p> <p>. . . computer system as a solution. More specification, the present invention accepts inputs for a specific client-server environment such as the number of users, amount of disk storage required, average number of transactions per second per . . .</p>

APPLICANTS' CLAUSE 1(a2): Applicants retrieve "user-type" information which is involved in each Server Farm. Here, Examiner has cited the Bhat reference column 3, lines 5-8 --- which certainly does not teach retrieving information on each user type involved in each Server Farm.

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
<p>1. (a3) retrieving from said Customer Profile each application program name used by each User-type in each Server Farm;</p>	<p><i>Col. 3, lines 1-15:</i></p> <p>The present invention accepts information regarding the customer's application, including the data size, processing time, and other characteristics of the transactions performed by the application, and then mathematically models and suggests an optimum configuration of a multiprocessor computer system as a solution. More specifically, the present invention accepts inputs for a specific client-server environment such as the number of users, amount of disk storage required, average number of transactions per second per user, average input data size per transaction, average output data size per transaction, average processor service time per transaction, average number of disk accesses per transaction, average disk service time per disk access, number of networks, and network bandwidth. The present invention suggests reasonable default values for the environment, which can be overridden by the user.</p>

APPLICANTS' CLAUSE 1(a3): This involves retrieving information on each application program name used by each user-type in each Server Farm. Here, Examiner has cited the Bhat reference column 3, lines 1-15. It is seen there is no teaching regarding the application program "names" for each user-type in each Server Farm.

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
<p>1. (a4) retrieving from said customer profile the required amount of disk capacity for each User-type using each application program and wherein said Customer Profile provides information on the disk capacity requirement for each single Server Farm and wherein step (a4) further includes the steps of:</p>	<p><i>Col. 1, lines 64-67:</i></p> <p>... the system, the amount of memory required, and the configuration of a disk subsystem suitable for the system, including the number of disk drives, the size of each of the disk drives, and how they should be configured for best...</p>

APPLICANTS' CLAUSE 1(a4): This involves retrieving information as to the required amount of disk capacity for each user-type which uses each application program. Here, Examiner has cited the Bhat reference column 1, lines 64-67, which merely states the configuration of a disk subsystem suitable for the system. There is no reference to disk capacity for each user-type and each application program. The generalized statement of Bhat cannot particularize the resources for (1) each user-type, nor (ii) each application program, as is done in Applicants' Fig. 1A, steps D4, D5, D6.

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
1. (a5) calculating the disk capacity requirement for a single Server Farm;	<p><i>Col. 3, lines 30-32:</i></p> <p>... the configuration of a disk subsystem suitable for the system, including the number of disk drives, the size of the disk drives, and how they should be configured for performance.</p>

APPLICANTS' CLAUSE 1(a5): Regarding calculating disk capacity for a single Server Farm. Here, Examiner has cited the Bhat reference, column 3, lines 30-32, which mentions the configuration of a disk subsystem and the number and size of disk drives. However, there is no concept of calculating the disk capacity requirement for a single Server Farm.

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
<p>1. (a6) inserting the disk capacity requirement information onto a Disk Capacity Report.</p>	<p><i>Col. 5, lines 62 -- Col. 6, line 2:</i></p> <p>Block 60 represents the generation of a detailed output report for the user describing the solution. The detailed output report provides the recommended model of multiprocessor computer system, the number of processors needed in the system, the amount of memory required, and the configuration of disk subsystem suitable for the system. . . .</p> <p>including the number of disk drives, the size of the disk drives, and how they should be configured for performance.</p>

APPLICANTS' CLAUSE 1(a6): Regarding putting the disk capacity information into a disk capacity report. Here, Examiner has cited column 5, lines 62 through Col. 6, line 2 of the Bhat reference. This only describes an output report for a recommended model of a multiprocessor computer system, the number of processors, the amount of memory and configuration of the disk subsystem, but there is no mention or teaching of a "disk capacity report".

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
<p>4. The method of claim 1 wherein said Customer Profile provides the actual User-Weight indicating user-usage as being light, medium, heavy or super-heavy, and wherein step (a4) includes the steps of:</p>	<p><i>Col. 6, lines 10-17:</i></p> <p>Another portion of the detailed output report also includes the average response time performance of the configured system for the specified workload, a summary of the resource utilization, and a bottleneck analysis. The average response time performance output generally includes a graph showing the expected response time performance depending on the number of users using the configured system. The output resource utilization generally includes ...</p>

APPLICANTS' CLAUSE 4: Where a customer profile provides the actual "user-weight" indicating user usage as being light, medium, heavy, or super-heavy. Here, the Examiner cites the Bhat reference of column 6, lines 10-17. This Bhat statement discusses a specified workload, resource utilization and bottleneck analysis, plus average response time performance depending on the number of users. This statement of Bhat does not contemplate the teaching of Applicants' concept of "user-weight" as being light, medium, heavy or super-heavy.

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
4. (a4a) filling out a Customer Data Report;	<p><i>Col. 4, lines 17-19:</i></p> <p>... In most cases, the only data that is needed for input would be the numbers of users, the amount of disk space required, and the number of transactions performed per second per user. The input process of the present invention ...</p>

APPLICANTS' CLAUSE 4 (a4a): Examiner has cited the Bhat reference column 4, lines 17-19. Here, Bhat states the only data needed would be the number of users, amount of disk space required and the number of transactions performed per second per user. This does not correlate with Applicants' providing for the filling-out of a customer data report.

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
<p>4. (a4b) calculating the actual User-Weight for each User-type operating with each application program wherein a Server Information Database provides information as to the normal total number of users that will be supported by a Server Farm and said number is designated the adjusted total of users, and wherein step (a4b) includes the steps of:</p>	<p><i>Col. 4, lines 42-46:</i></p> <p>... transactions per user and the total number of users. Block 34 represents the calculation of the network throughput by adding the input and output data sizes, multiplying the result by the number of users and by the number of transactions per user. Block 36 represents the calculation of the total amount ...</p>

APPLICANTS' CLAIM 4(a4b): This involves calculating "user weights" for each user-type operating within each application program and utilizing a server information database. Here, Examiner has cited the Bhat reference column 4, lines 42-46 -- regarding a Block which represents the calculation of network throughput by adding input and output data sizes, multiplying by the number of users and number of transactions per user. As thus seen, this does not correlate with the use of a Server Information Database (Applicants' Fig. 2, Item #20) regarding the normal total number of users that will be supported by a Server Farm.

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
4. (a4b1) accessing said Server Information Database for Server data;	<p><i>Col. 2, lines 42-43:</i></p> <p>... device 18 and a keyboard 20. In addition, the computer 10 operates under the control of an operating system 22. The present invention itself is a computer program 24 and database operating under control of the operating system 22.</p>

APPLICANTS' CLAIM 4(a4b1): Here, Examiner has cited the Bhat reference column 2, lines 42-43, which only mentions a computer operating under the control of an operating system with a database operating under control of the operating system. This certainly does not teach or apply to Applicants' specific use of the Server Information Database for server data. (Note: Applicants' Fig. 2, Item #20). Here, Bhat does not contemplate the user of Servers or Server Farms or information databases for servers.

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
<p>4. (a4b2) calculating for each Server Farm the adjusted total of users for each application program, wherein said Server Information Database provides means to calculate the required data transmission capability needed for bi-directional communication between users and said Server Farm, and wherein step (a4b1) includes the steps of:</p>	<p><i>Col. 4, lines 43-46:</i></p> <p>... transactions per user and the total number of users. Block 34 represents the calculation of the network throughput by adding the input and output data sizes, multiplying the result by the number of users and by the number of transactions per user. Block 36 represents the calculation of the total amount ...</p> <p><i>and</i></p> <p><i>Col. 2, lines 42-43:</i></p> <p>... In addition, the computer 10 operates under the control of an operating system 22. The present invention itself is a computer program 24 and database operating under control of the operating system 22.</p>

APPLICANTS' CLAIM 4(a4b2): This involves calculating for each Server Farm the "adjusted total" of users for each application program and the use of the Server Information Database (20). Here, Examiner has cited the Bhat reference column 4, lines 43-46, and column 2, lines 42-43, which are shown the chart above. Here, it will be noted that this only talks about a Block 34 representing the calculation of a network throughput by adding input and output data sizes, multiplying by number of users and by number of transactions per user, plus the mention of a computing device and keyboard. These do not correlate with Applicants' claim 4, clause (a4b2). Bhat does not teach calculations for adjusted total of users for each application program.

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
<p>4. (a4b1a) calculating, for each Server Farm, the required data transmission capability in kilobits per second;</p>	<p><i>Col. 5, lines 15-25:</i></p> <p>Blocks 50-58 represent the calculation of the resource utilization, network utilization and bottleneck analysis. Block 50 represents the graphing of response time versus number of users, wherein the response time is calculated according to:</p> <p>Response time = (processor service time/((percentage of time allocated for the main application) - (processor service time * current user increment (from 1 to the maximum users) * number of transactions per second per user/effective number of processors))) + (disk service time per transaction/ (1- (user increment*.number of transactions per second per user * disk service time/number of disk drives)) + (sum of input and output data size transmitted on the network) network throughput rate at the client.</p> <p>Block 52 represents the calculation of the processor utilization according to:</p> <p>...</p>

APPLICANTS' CLAIM 4(a4b1a): Regarding calculating for each Server Farm the required data transmission capability. Here, Examiner cites the Bhat reference column 5, lines 15-25. Here, Bhat talks of the graphing of response time versus the number of users, and indicates how the response time is calculated. There is no appropriate reference to doing this for each Server Farm involved, as is indicated by the multiplicity of Server Farms in Applicants' Fig. 3.

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
<p>4. (a4b1b) calculating the number of Servers to service the customer's configuration.</p>	<p><i>Col. 3, lines 28-30:</i></p> <p>On receiving the inputs, the present invention performs a set of calculations contained in the mathematical model to provide the following outputs: the recommended model of multiprocessor computer system, the number of processors needed in the server, the amount of memory required, and the configuration of a disk subsystem suitable for the system, including the number of disk drives, the size of the disk ...</p>

APPLICANTS' CLAIM 4(a4b1b): Regarding calculating the number of servers to service the customer's configuration. Here, Examiner has cited the Bhat reference column 3, lines 28-30. Here, Bhat talks about a model of a computer system and the number of processors needed in the server, the amount of memory and configuration of a disk subsystem. On the other hand, note that Applicants are speaking about calculating the number of "Servers" to service the customer's configuration. There is no intimation in Bhat on calculating the number of Servers which will make-up a Server Farm.

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
<p>8. The method of claim 1 wherein said Customer Profile utilizes an Application Delivery Solution Configurator to determine the required amount of memory capacity appropriate to each Server Farm, and, which includes the steps of:</p>	<p><i>Col. 3, lines 28-30:</i></p> <p>. . . the recommended model or multiprocessor computer system, the number of processors needed in the server, the amount of memory required, and the configuration of a disk subsystem suitable for the system. . . .</p> <p><i>and</i></p> <p><i>Col. 5, lines 35-50:</i></p> <p>Block 54 represents the calculation of the disk utilization according to:</p> <p>disk utilization = number of users * number of transactions per second per user * number of disk accesses per transaction * disk service time per disk access/number of disk drives.</p> <p>Block 56 represents the calculation of the network utilization according to:</p> <p>network utilization - number of transactions per user * number of users * (data input size + data output size) * 1.2 (for assumed overhead)/(network bandwidth * number of networks).</p>

APPLICANTS' CLAIM 8: Regarding Applicants utilizing an Application Delivery Solution Configurator to determine the amount of memory capacity appropriate to each Server Farm. Here, the Examiner has cited the Bhat reference column 3, lines 28-30, and column 5, lines 35-50. This reference only shows Bhat talking about the calculation of disk utilization and also calculation of network utilization -- but nothing appropriate to the memory capacity of each Server Farm. Note Applicants' step D29 of Fig. 1D, regarding the Application Delivery Solution Configurator.

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
<p>8. (i) calculating the required amount of memory capacity for each Server Farm;</p>	<p><i>Col. 1, lines 63-68:</i></p> <p>... requirements. The user specified requirements comprise workload parameters. The generated output from the capacity planning generally comprises a recommended multiprocessor computer system, the number of processors needed in the system, the amount of memory required, and the configuration of a disk subsystem suitable for the system, including the number of disk drives, the size of each of the disk drives, and how they should be configured for best ...</p>

APPLICANTS' CLAIM 8(i): Regarding calculating the required amount of memory for each Server Farm. Here, Examiner has cited the Bhat reference column 1, lines 63-68. Here, Bhat talks about capacity planning regarding a multiprocessor computer system, and the number of processors needed, the amount of memory required, and configuration of disk subsystem. This does not correlate with calculating the amount of memory capacity for each Server Farm, as is done by Applicants. Bhat does not teach or contemplate multiple Server Farms.

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
<p>8. (ii) developing a Base Solutions Report having a base solution which indicates the number of Server Farms, the number of Servers in a Farm, plus disk and memory requirements for each Server Farm</p>	<p><i>Col. 3, lines 5-32:</i></p> <p>... suggests an optimum configuration of a multiprocessor computer system as a solution. More specifically, the present invention accepts inputs for a specific client-server environment such as the number of users, amount of disk storage required, average number of transactions per second per user, average input data size per transactions, average output data size per transaction, average processor service time per transaction, average number of disk accesses per transaction, average disk service time per disk access, number of networks, and network bandwidth. The present invention suggests reasonable default values for the environment which can be overridden by the user.</p>

APPLICANTS' CLAIM 8(ii): Regarding developing a base solution indicating the number of Server Farms, the number of Servers in a Farm, plus disk and memory requirements for each Server Farm. Here, the Examiner cited the Bhat reference, column 3, lines 5-32. This speaks of an optimum configuration of a multiprocessor computer system, plus other details which are not oriented to Server Farms or Servers, as is done by Applicants' claim 8(ii).

Note that Bhat "suggests" a multiprocessor computer system. This does not teach a multiplicity of Server Farms.

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
<p>8. (iia) calculating a set of Default Availability Levels which characterize said base solution;</p>	<p><i>Col. 3, lines 22-28:</i></p> <p>... may be consumed by other tasks, such as periodic database updates, down time for backups, downloading data from other systems, etc. These variables are specifically addressed by the present invention using an estimate of the percentage of system resources consumed by such auxiliary processing.</p> <p>On receiving the inputs, the present invention performs a set of calculations contained in the mathematical model to provide the following outputs: the recommended model of multiprocessor computer system, the number of processors needed in the server, the amount of memory required, and ...</p>

APPLICANTS' CLAIM 8(iia): Regarding calculating a set of Default Availability Levels in a base solution. Here, Examiner has cited the Bhat reference column 3, lines 22-28. Here, Bhat only vaguely mentions of using an estimate of the percentage of system resources consumed by auxiliary processing.

Here, one should notice Applicants' specification at page 14 on "Availability Levels" for a Server Farm which is calculated as based on: (i) number of adjusted concurrent users; (ii) the system repair time; and (iii) the Redundancy Factor (as described on page 18 of Applicants' specification).

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
8. (iib) filling-out an Availability Report indicating said Availability Level.	<p><i>Col. 5, lines 62-67:</i></p> <p>Block 60 represents the generation of a detailed output report for the user describing the solution. The detailed output report provides the recommended model of multiprocessor computer system, the number of processors needed in the system, the amount of memory required, and the configuration of a disk subsystem suitable for the system.</p>

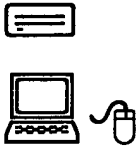
APPLICANTS' CLAIM 8(iib): Regarding filling-out an Availability Report indicating the Availability Levels. Here, Examiner has cited the Bhat reference column 5, lines 62-67. Bhat talks about a report of a recommended model for a computer system, number of processors needed, the amount of memory required and configuration of a disk subsystem. This does not relate to the concept of Applicants' "Availability Level". The concept of Availability Level was indicated in Fig. 24 of USSN 09/813,667 (Docket 041-509-L), which involved an Availability Calculator which helped to determine solutions that include future growth potential requirements, together with a variety of redundancy levels. Here, a screen was provided which is interactive and can take input from adjusted concurrent number of users, system repair times and redundancy levels. The screen is interactive, and will take input for adjusted concurrent number of users, system repair times and redundancy levels, plus returning solution information, such as estimated number of servers, the number of peaked users, the availability, the estimated down time, number of redundant servers and the server meantime-to-failure. Availability Level is discussed on page 11 of Applicants' specification.

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
<p>10. The method of claim 4 wherein said Customer Profile utilizes an Application Delivery Solution Configurator to develop a Network Capacity Report on a window which indicates the estimated network activity (Kbps) for each Server Farm at each customer site, and displays the entire network solution as to the minimum number of Server Farms, the minimum number of Servers per Farm, the required operating system memory amount, the number of and speed of processors for each type of server used, all done for each customer site, and wherein step (a4b1b) includes the steps of:</p> <p><i>[Note the details of Applicants' Figs. 1A, 1B, 1C, 1D, and Figs. 2 and 3].</i></p>	<p><i>Col. 6, lines 10-20:</i></p> <p>Another portion of the detailed output report also includes the average response time performance of the configured system for the specified workload, a summary of the resource utilization, and a bottleneck analysis. The average response time performance output generally includes a graph showing the expected response time performance depending on the number of users using the configured system. The output resource utilization generally includes the percentage processor utilization, percentage disk utilization, and percentage network utilization for the specified workload. The output bottleneck analysis generally ...</p>

APPLICANTS' CLAIM 10: In the preamble, the customer profile utilizes an Application Delivery Solution Configurator to develop a network capacity report which was dedicated to each Server Farm, plus various parameters of the Server Farms. Here, the Examiner has cited the Bhat reference, column 6, lines 10-20. Here, Bhat merely gives generalized responses regarding the response time performance depending on the number of users in the configured system, plus a certain percentage of processor and disk network utilization. This would not correlate to the teaching of Applicants' Application Delivery Solution Configurator, as described at page 11 of Applicants' specification; and Figs. 1A, 1B, 1C, 1D, showing steps D1 through D29.

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
<p>10. (i) filling-in a Network Capacity Report which indicates the transmission capacity (kilobits/sec) for the enterprise Server Farm network;</p>	<p><i>Col. 6, lines 18-20:</i></p> <p>Another portion of the detailed output report also includes the average response time performance of the configured system for the specified workload, a summary of the resource utilization, and a bottleneck analysis. The average response time performance output generally includes a graph showing the expected response time performance depending on the number of users using the configured system. The output resource utilization generally includes the percentage processor utilization, percentage disk utilization, and percentage network utilization for the specified workload. The output bottleneck analysis generally ...</p>

APPLICANTS' CLAIM 10(i): Regarding developing a Network Capacity Report to indicate transmission capacity for a Server Farm network. Here, Examiner has cited the Bhat reference, column 6, lines 18-20. Here, Bhat discusses the average response time performance for his configured system for a specified workload. On looking at this, it does not correlate with any teaching in regard to Applicants' network capacity report which indicates transmission capacity and kilobits per second for the Server Farm network. Applicants use a Network Capacity Tab window as shown in Fig. 26 of USSN 09/813,667. And, as per page 17 of Applicants' specification, this is done for each site of the Server Farms.

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
<p>10. (ii) displaying the Network Capacity Report of the entire network solution on a Window screen.</p>	<p>See Bhat, Fig. 1 (attached).</p> 

APPLICANTS' CLAIM 10(ii): Regarding displaying the Network Capacity Report of the entire network solution on a Windows screen. Here, Examiner has cited the Bhat reference, citing Fig. 1, which is merely a set of drawing modules showing a PC with an operating system and a database.

Here, note Applicants' specification at page 17, on the Network Capacity Job Window (see Fig. 26 of USSN 09/813,667).

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
11. A system for deriving a proposed base solution of Servers and Server Farms at one or more sites with their supporting apparatus to support a proposed configuration adequate to handle the specific requirements of a specific customer's enterprise comprising:	<i>No citation.</i>

APPLICANTS' CLAIM 11: Regarding the Preamble involving deriving a base solution of Servers and Server Farms at one or more sites. There has been no citation here from Examiner.

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
11. (a) means to format customer profile data in a configuration database template;	Col. 2, lines 42-43: ... device 18 and a keyboard 20. In addition, the computer 10 operates under the control of an operating system 22. The present invention itself is a computer program 24 and database operating under control of the operating system 22.

APPLICANTS' CLAIM 11(a): Regarding means to format customer profile data in a configuration database template. Here, Examiner has cited the Bhat reference column 2, lines 42-43, which merely refers to a device 18, keyboard 20, and computer 10, with an operating system 22. This does not correlate with Applicants' Fig. 2, which shows a multiplicity of databases, items 20, 30, 40, 50 in Applicants' Fig. 2.

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
<p>11. (b) means to store benchmark information and characteristics of Servers in a Server information database;</p>	<p><i>Col. 2, lines 42-43:</i></p> <p>... device 18 and a keyboard 20. In addition, the computer 10 operates under the control of an operating system 22. The present invention itself is a computer program 24 and database operating under control of the operating system 22.</p>

APPLICANTS' CLAIM 11(b): Regarding means to store benchmark information and characteristics of Servers in a Server information database. Here, Examiner has cited the Bhat reference, column 2, lines 42-43, which again, only mentions a computer with a keyboard and a database under control of an operating system 22. This does not correlate with Applicants' Fig. 2 and use of a Server Information Database, item 20.

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
<p>11. (c) means to store (30) the number of Servers for utilization and their availability levels;</p>	<p><i>Col. 6, lines 18-20:</i></p> <p>... The output resource utilization generally includes the percentage processor utilization, percentage disk utilization, and percentage network utilization for the specified workload. The output bottleneck analysis generally ...</p>

APPLICANTS' CLAIM 11(c): Regarding means to store the number of servers for utilization and their availability levels. Here, Examiner has cited the Bhat reference column 6, lines 18-20, which only states various percentage utilizations per a specified workload.

No teaching in Bhat indicates "number of servers nor Availability Levels", as indicated in Applicants' page 11, and Fig. 24 of USSN 09/813,667.

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
<p>11. (d) means to store the attributes of User-types and applications for an optimization configuration program for developing an optimized configuration of Server Farms tailored to a customer's profile;</p>	<p><i>Col. 3, lines 1-5:</i></p> <p>The present invention accepts information regarding the customer's application, including the data size, processing time, and other characteristics of the transactions performed by the application, and then mathematically models and suggests an optimum configuration of a multiprocessor computer system as a solution. More specifically, the present ...</p>

APPLICANTS' CLAIM 11(d): Regarding means to store the attributes of User-types and applications for an optimization configuration program. Here, the Examiner has cited the Bhat reference column 3, lines 1-5, which merely states a "generality" about "mathematical models" for suggesting an optimum configuration of a multiprocessor computer system, but Bhat does not teach any mathematical models which could be utilized.

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
<p>11. (e) means to calculate a base solution for establishing the appropriate number of Servers and associated support apparatus for each site and each Server Farm;</p>	<p><i>Col. 3, lines 24-29:</i></p> <p>On receiving the inputs, the present invention performs a set of calculations contained in the mathematical model to provide the following outputs: the recommended model of multiprocessor computer system, the number of processors needed in the server, the amount of memory required, and the configuration of a disk subsystem suitable for the system, ...</p>

APPLICANTS' CLAIM 11(e): Regarding means to calculate a base solution for establishing the appropriate number of Servers and support apparatus for each site and each Server Farm. Here, Examiner has cited the Bhat reference column 3, lines 24-29. This states performing a set of calculations from a mathematical model (which is never indicated) to provide a recommended multiprocessor computer system, number of processors in the server, amount of memory and configuration of disks. There is nothing to indicate here that this is done for each site and for each Server Farm involved, since Bhat does not encompass the base solution of multiple servers to form Server Farms.

Note that Applicants' Fig. 23 of USSN 009/813,667 shows the Base Solution Tab window. This is also defined on page 12 of Applicants' specification.

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
<p>11. (f) means to store final solution information suitable for generating an optimized configuration report;</p>	<p>Col. 5, lines 62-65:</p> <p>Block 60 represents the generation of a detailed output report for the user describing the solution. The detailed output report provides the recommended model of multiprocessor computer system, the number of processors needed in the system, the amount of memory required, and the configuration of a disk subsystem suitable for the system.</p>

APPLICANTS' FIG. 11(f): Regarding means to store final solution information suitable for generating an optimized configuration report. Here, the Examiner has cited column 5, lines 62-65 of the Bhat reference. Here, Bhat cites a "generalized" Block 60, supposedly representing the generation of a detailed output report which describes a solution. Note, that Applicants' Fig. 2 shows the configuration of an Application Solution Delivery Configurator 60 which can provide an optimized configuration report, as delineated in Figs. 1A, 1B, 1C, 1D.

APPLICANTS' CLAIM/CLAUSE:	EXAMINER'S CITATION TO BHAT:
11. (g) means to generate an optimized configuration report for said Servers and Server Farms.	<i>No referenced citation.</i>

APPLICANTS' CLAUSE 11(g): Regarding means to generate an optimized configuration report for Servers and Server Farms. It should be noted that Examiner has no citation from Bhat here, since the Bhat reference does not contemplate the development of Servers and Server Farms. Bhat only discusses a "computer system".

It should be noted as indicated in the cited legal references below, that each and every single one of Applicants' claim clauses must be specifically taught by the cited references --- or the cited references cannot be applied negatively to the claim as a whole.

It a recent CAFC decision, Trintec Industries, Inc. v. Top-USA Corporation, as decided by the Court of Appeals in the Federal Circuit, it was stated as follows:

"Inherent anticipation requires that the missing descriptive material is 'necessarily present', not merely probably or possibly present in the prior art". In re Robertson, 169 F.3d 743, 745; 49 USPQ2d 1949, 1950-1951 (Fed.Cir. 1999).

Further, a recent CFC decision should be noted in: Elan Pharmaceuticals v. Mayo Foundation for Medical Education & Research, 68 USPQ2d 1373 (decided 10/2/03 Court of Appeals, Fed. Cir.) which held the following:

The disclosure in an anticipating reference must be adequate to enable the desired subject matter. It is insufficient to name or describe the subject matter if it cannot be produced without undue experimentation. (Underlines added).

In view of the previous comments, and according to the general Patent Law considerations, the invention should be considered as a whole in its entirety, and not just because certain portions or parts are similar to other references. In this regard, it is requested that Examiner look at Applicants'

invention as a whole in its entirety, and subsequently provide a timely Notice of Allowance for the extant claims.

Respectfully submitted,

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Certificate of Mailing (37 CFR 1.8a)

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: MAIL STOP AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date:

July 6, 2005

Patti S. Reddy

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